

# HOUSE . . . . . No. 1072

By Ms. Wolf of Cambridge, petition of Alice K. Wolf relative to ensuring that all students have access to educational opportunities and quality learning time. Education.

## The Commonwealth of Massachusetts

### PETITION OF:

Alice K. Wolf	Steven A. Tolman
Ellen Story	Patricia D. Jehlen
Timothy J. Toomey, Jr.	John W. Scibak
Patricia A. Haddad	Joyce A. Spiliotis
William Smitty Pignatelli	Cory Atkins
Frank I. Smizik	Kathleen M. Teahan
Jarrett T. Barrios	Robert M. Koczera
Matthew C. Patrick	

In the Year Two Thousand and Five.

### AN ACT RELATIVE TO ALTERNATIVE EDUCATION.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 2 of Chapter 70 of the General Laws, as  
2 appearing in the 2002 Official Edition, is hereby amended by  
3 inserting after the word “October”, in line 223, the following sen-  
4 tences:— No student expelled by a school district shall be  
5 included in the department’s calculation of the said district’s foun-  
6 dation budget, unless the student is provided with alternative edu-  
7 cation as determined by the department. The department shall  
8 adjust the district’s October first enrollment report upon notifica-  
9 tion of the district that a student has been expelled.

1 SECTION 1A. Said Section 2 of said Chapter 70, as so  
2 appearing, is hereby further amended by inserting after the word  
3 “tuition”, in line 527, the following sentence:—

4 Any state aid for students who have been placed in alternative  
5 education programs shall follow the student, pro-rated for the  
6 number of school days a student has attended in the school dis-  
7 trict.

1 SECTION 2. Section 37H of Chapter 71, as appearing in the  
2 2002 Official Edition, is hereby amended by adding at the end  
3 thereof the following clause:—

4 (f) The superintendent shall conduct a review of any discipli-  
5 nary exclusion, as defined herein, under this section, section 37½,  
6 or section 17 of Chapter 76, not later than 6 months after the date  
7 of the disciplinary exclusion for any student who is not receiving  
8 alternative education, unless a review is requested by the student,  
9 or their parents or legal guardian prior to the 6 month review, or  
10 not later than 1 year after the date of the disciplinary exclusion for  
11 any student who is receiving alternative education, for the purpose  
12 of determining whether the student should be re-admitted to  
13 school prior to the end of the disciplinary exclusion. The superin-  
14 tendent shall consult with the principal concerning the student's  
15 re-admittance and shall accept and consider written reports and  
16 any testimony submitted by the student or student's parents or  
17 legal guardian relevant to the question of whether the student  
18 should be re-admitted. The student or the student's parents or  
19 legal guardian may be represented by counsel or by any person  
20 they designate to speak on their behalf. The student shall be re-  
21 admitted if the student can demonstrate the following: (1) that the  
22 student's presence in school will not pose a physical danger to  
23 himself, or others, and (2) that the student objectively demon-  
24 strates that he has addressed satisfactorily the behavior that led to  
25 the disciplinary exclusion. The parent, guardian or student whose  
26 family income is below 600% of poverty may request from the  
27 district an evaluation as part of this review from an independent  
28 qualified evaluator of their choice who is certified, registered,  
29 licensed or otherwise approved and who abides by rates set by the  
30 state agency responsible for setting such rates. If, following a  
31 review hearing, the superintendent does not re-admit the student  
32 further review hearings to consider the student's re-admittance  
33 shall be convened by the superintendent every six months  
34 following the first review hearing.

35 The superintendent shall notify in writing the student, their par-  
36 ents, or legal guardian of the rights set forth in this section. Any  
37 notification sent to students, parents or legal guardians shall be in  
38 a language understandable by such persons.

39 Within ten school days, the superintendent shall notify in  
40 writing the student and the student's parents or legal guardians of  
41 the decision as to the student's attendance status within the school  
42 system. If the superintendent determines that the disciplinary  
43 exclusion shall remain in effect, the letter shall state to the student  
44 the conditions under which a student can obtain re-admittance to  
45 school, the date of the next review hearing, and any alternative  
46 education options that exist for the student.

47 The superintendent shall notify the commissioner of education  
48 of any disciplinary exclusion of any student from school and shall  
49 report to the commissioner the opportunities for alternative educa-  
50 tion provided to the student. The commissioner shall file a report  
51 on an annual basis with the joint committee on education, arts and  
52 humanities concerning the number of disciplinary exclusions in  
53 public schools, the alternative education options provided to stu-  
54 dents and the number of students re-admitted under the provisions  
55 of this section. The term "disciplinary exclusion" shall mean any  
56 disciplinary action, however termed, taken under the authority of  
57 the school committee, principal, or superintendent, to prohibit a  
58 student from attending classes the student would have attended  
59 but for the disciplinary action for more than 10 consecutive school  
60 days.

1 SECTION 3. Chapter 76, as appearing in the 2002 Official Edi-  
2 tion, is hereby amended by inserting after section 17 the following  
3 section:—

4 Section 17A Notwithstanding any general or special law to the  
5 contrary, any student under the age of twelve may not be expelled  
6 from school unless the school district first proves by clear and  
7 convincing evidence to a court of competent jurisdiction that the  
8 student is a physical danger to himself or others, and the district  
9 receives permission of the court to expel the student. Any student  
10 expelled from school under this section shall retain the rights of  
11 appeal and review as set forth in section 37H of chapter 71 of the  
12 General Laws.

1     SECTION 4. Section 3 of Chapter 71B is hereby amended by  
2 adding a new paragraph at the end:

3     The principal of a school or the principal's designee shall deter-  
4 mine whether a referral for an evaluation should be made for any  
5 child attending said school who has been suspended or truant  
6 more than five days in any quarter and shall provide notice in  
7 writing in the primary language of the home to the parent(s) or  
8 guardian.

1     SECTION 5. Section 1B of Chapter 69 of the General Laws, as  
2 appearing in the 2002 Official Edition, is hereby amended by  
3 striking out the 20th paragraph and inserting in place thereof the  
4 following:— The board shall establish the permissible and manda-  
5 tory ages for school attendance; provided, that such mandatory  
6 ages shall be from the age of 6 to the age of 18, or until gradua-  
7 tion from high school, whichever comes first.

1     SECTION 6. Chapter 741 of the Acts of 1965 is hereby  
2 repealed.